

**STATUTORY TEXT OF NEW AND SUBSTANTIALLY AMENDED
KANSAS OPEN RECORDS EXCEPTIONS
CERTIFIED FOR THE 2019 LEGISLATIVE SESSION**

9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) (1) All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2019.

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

21-2511. (a) On and after May 2, 1991, any person required to register as an offender pursuant to the Kansas offender registration act, any adult arrested or charged or juvenile placed in custody for or charged with the commission of any of the following offenses, regardless of the sentence imposed, shall be required to submit biological samples authorized by and given to the Kansas bureau of investigation in accordance with the provisions of this section:

(1) Any felony;

(2) subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2018 Supp. 21-5504, and amendments thereto;

(3) K.S.A. 21-3508, prior to its repeal, or K.S.A. 2018 Supp. 21-5513, and amendments thereto, when committed in the presence of a person 16 or more years of age;

- (4) K.S.A. 21-4310, prior to its repeal, or K.S.A. 2018 Supp. 21-6412, and amendments thereto;
 - (5) K.S.A. 21-3424, prior to its repeal, or K.S.A. 2018 Supp. 21-5411, and amendments thereto, when the victim is less than 18 years of age;
 - (6) K.S.A. 21-3507, prior to its repeal, or K.S.A. 2018 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;
 - (7) subsection (b)(1) of K.S.A. 21-3513, prior to its repeal, when one of the parties involved is less than 18 years of age;
 - (8) K.S.A. 21-3515, prior to its repeal, when one of the parties involved is less than 18 years of age, or K.S.A. 2018 Supp. 21-6421, and amendments thereto, when the offender is less than 18 years of age;
 - (9) K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2018 Supp. 21-5505, and amendments thereto; or
 - (10) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2018 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such offenses provided in this subsection.
- (b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons required to submit a sample under the provisions of this section.
- (c) Any person required to submit a sample pursuant to subsection (a) shall be required to submit such sample at the same time such person is fingerprinted pursuant to the booking procedure, or as soon as practicable.
- (d) Any person convicted as an adult and who was incarcerated on May 2, 1991, for a crime committed prior to May 2, 1991, shall be required to submit a sample prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation. Collection of samples shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.
- (e) Prior to taking such samples, the arresting, charging or custodial law enforcement or juvenile justice agency shall search the Kansas criminal history files through the Kansas criminal justice information system to determine if such person's sample is currently on file with the Kansas bureau of investigation. In the event that it cannot reasonably be established that a sample for such person is on file at the Kansas bureau of investigation, the arresting, charging or custodial law enforcement or juvenile justice agency shall cause a sample to be collected. If such person's sample is on file with the Kansas bureau of investigation, the law enforcement or juvenile justice agency shall not be required to take the sample.
- (f) (1) If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the sample and the profile record of such person.
- (2) If a conviction against a person who is required to submit such sample is overturned, expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation, upon petition by such person, shall expunge both the sample and the profile record of such person.
- (g) The Kansas bureau of investigation shall provide all kits, supplies and instructions necessary for the collection of biological samples. The collection of samples shall be performed in a medically approved manner. No person assisting in the collection of samples pursuant to the provisions of this section shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. Such

samples shall be forwarded to the Kansas bureau of investigation and the bureau shall analyze such samples to the extent allowed by funding available for this purpose.

(h) (1) Samples and profile records shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database capable of, but not limited to, searching, matching and storing profile records. The DNA database established by this section shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index system. The Kansas bureau of investigation shall participate in the federal bureau of investigation's combined DNA index system program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

(2) Profile records obtained pursuant to this section shall be confidential and shall be released only to authorized criminal justice agencies. Such records shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including, but not limited to, identification of missing persons.

(3) The Kansas bureau of investigation shall be the state central repository for all profile records and samples obtained pursuant to this section. No profile records shall be accepted for admission or comparison unless obtained in substantial compliance with the provisions of this section by an accredited forensic laboratory meeting the national DNA index system guidelines established by the federal bureau of investigation.

(i) (1) The Kansas bureau of investigation shall promulgate rules and regulations for:

(A) The form and manner of the collection and maintenance of samples;

(B) a procedure which allows defendants to petition to expunge and destroy the samples and profile record in the event of a dismissal of charges, expungement or acquittal at trial, expungement or overturned conviction; and

(C) any other procedures for the operation of this section.

(2) Such rules and regulations also shall require compliance with national quality assurance standards to ensure that profile records satisfy standards of acceptance of such records into the national DNA index system.

(3) The provisions of the Kansas administrative procedure act shall apply to all actions taken pursuant to such rules and regulations.

(j) The Kansas bureau of investigation is authorized to contract with third parties for the purposes of implementing this section. Any other party contracting to carry out the functions of this section shall be subject to the same restrictions and requirements of this section, insofar as applicable, as the bureau, as well as any additional restrictions or requirements imposed by the bureau.

(k) In the event that a person's sample is lost, was not properly obtained pursuant to the provisions of this section or is not adequate for any reason, the person shall provide another sample for analysis.

(l) A sample, or any evidence based upon or derived from such sample, collected by a law enforcement agency or a juvenile justice agency in substantial compliance with the provisions of this section, shall not be excluded as evidence in any criminal proceeding on the basis that such sample was not validly obtained.

(m) Any person who is subject to the requirements of this section, and who, after receiving notification of the requirement to provide a sample, knowingly refuses to provide such sample, shall be guilty of a class A nonperson misdemeanor.

(n) (1) Any person who, by virtue of employment or official position, has possession of, or access to, samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall not disseminate such samples or records except in strict accordance with applicable laws.

(2) A criminal justice agency shall not request profile records from the Kansas bureau of investigation or another criminal justice agency unless such agency has a legitimate need for such records in accordance with subsection (h)(2).

(3) In addition to any other remedy or penalty authorized by law, any person who knowingly violates or causes a violation of this subsection shall be guilty of a class A nonperson misdemeanor. If such person is employed or licensed by a state or local government agency, a conviction for violation of this subsection shall constitute good cause to terminate such person's employment or to revoke or suspend such person's license.

(o) Any person who, without authorization, knowingly obtains samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall be guilty of a class A nonperson misdemeanor.

(p) As used in this section:

(1) "DNA" means deoxyribonucleic acid;

(2) "profile record" means the identifying information of the laboratory and laboratory personnel performing the DNA analysis, the sample identification number and data related to the reliability and maintainability of a DNA profile;

(3) "DNA profile" means a set of DNA identification characteristics that permit the DNA of one person to be distinguishable from the DNA of another person; and

(4) "biological sample" means a body tissue, fluid or other bodily sample, usually a blood or buccal sample, of an individual on which DNA analysis can be carried out.

21-5905. (a) Interference with the judicial process is:

(1) Communicating with any judicial officer in relation to any matter which is or may be brought before such judge, magistrate, master or juror with intent to improperly influence such officer;

(2) committing any of the following acts, with intent to influence, impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor:

(A) Communicating in any manner a threat of violence to any judicial officer or any prosecutor;

(B) harassing a judicial officer or a prosecutor by repeated vituperative communication; or

(C) picketing, parading or demonstrating near such officer's or prosecutor's residence or place of abode;

(3) picketing, parading or demonstrating in or near a building housing a judicial officer or a prosecutor with intent to impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor;

(4) knowingly accepting or agreeing to accept anything of value as consideration for a promise:

- (A) Not to initiate or aid in the prosecution of a person who has committed a crime; or
- (B) to conceal or destroy evidence of a crime;
- (5) knowingly or intentionally in any criminal proceeding or investigation:
 - (A) Inducing a witness or informant to withhold or unreasonably delay in producing any testimony, information, document or thing;
 - (B) withholding or unreasonably delaying in producing any testimony, information, document or thing after a court orders the production of such testimony, information, document or thing;
 - (C) altering, damaging, removing or destroying any record, document or thing, with the intent to prevent it from being produced or used as evidence; or
 - (D) making, presenting or using a false record, document or thing with the intent that the record, document or thing, material to such criminal proceeding or investigation, appear in evidence to mislead a justice, judge, magistrate, master or law enforcement officer;
- (6) when performed by a person summoned or sworn as a juror in any case:
 - (A) Intentionally soliciting, accepting or agreeing to accept from another any benefit as consideration to wrongfully give a verdict for or against any party in any proceeding, civil or criminal;
 - (B) intentionally promising or agreeing to wrongfully give a verdict for or against any party in any proceeding, civil or criminal; or
 - (C) knowingly receiving any evidence or information from anyone in relation to any matter or cause for the trial of which such juror has been or will be sworn, without the authority of the court or officer before whom such juror has been summoned, and without immediately disclosing the same to such court or officer; or
- (7) knowingly making available by any means personal information about a judge or the judge's immediate family member, if the dissemination of the personal information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat.
 - (b) Interference with the judicial process as defined in:
 - (1) Subsection (a)(1) is a severity level 9, nonperson felony;
 - (2) subsection (a)(2) and (a)(3) is a class A nonperson misdemeanor;
 - (3) subsection (a)(4) is a:
 - (A) Severity level 8, nonperson felony if the crime is a felony; or
 - (B) class A nonperson misdemeanor if the crime is a misdemeanor;
 - (4) subsection (a)(5) is a:
 - (A) Severity level 8, nonperson felony if the matter or case involves a felony; or

- (B) class A nonperson misdemeanor if the matter or case involves a misdemeanor;
- (5) subsection (a)(6)(A) is a severity level 7, nonperson felony;
- (6) subsection (a)(6)(B) or (a)(6)(C) is a severity level 9, nonperson felony; and
- (7) subsection (a)(7) is a:
 - (A) Class A person misdemeanor, except as provided in subsection (b)(7)(B); and
 - (B) severity level 9, person felony upon a second or subsequent conviction.
- (c) Nothing in this section shall limit or prevent the exercise by any court of this state of its power to punish for contempt.
- (d) As used in this section:
 - (1) "Immediate family member" means a judge's spouse, child, parent or any other blood relative who lives in the same residence as such judge.
 - (2) "Judge" means any duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge.
 - (3) "Personal information" means a judge's home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, personal photograph, immediate family member photograph, photograph of the judge's home, and information about the judge's motor vehicle, any immediate family member's motor vehicle, any immediate family member's place of employment, any immediate family member's child care or day care facility and any immediate family member's public or private school that offers instruction in any or all of the grades kindergarten through 12.

22-2302. (a) If the magistrate finds from the complaint, or from an affidavit or affidavits filed with the complaint or from sworn testimony, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue, except that a summons instead of a warrant may be issued if: (1) The prosecuting attorney so requests; or (2) in the case of a complaint alleging commission of a misdemeanor, the magistrate determines that a summons should be issued. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) For a warrant or summons executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(c) (1) For a warrant or summons executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be open to the public until the warrant or summons has been executed. After the warrant or summons has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. Upon entry of appearance by an attorney on behalf of the defendant, or indication by the defendant to the court that such defendant will represent the defendant's self, the clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim. For the purposes of this subsection, victim shall include any victim of an alleged crime that resulted in the issuance of the arrest warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2018 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

22-2502. (a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement which is made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate may issue a search warrant for:

(1) The search or seizure of the following:

(A) Anything that can be seized under the fourth amendment of the United States constitution;

(B) anything which has been used in the commission of a crime, or any contraband or any property which constitutes or may be considered a part of the evidence, fruits or instrumentalities of a crime under the laws of this state, any other state or of the United States. The term "fruits" as used in this act shall be interpreted to include any property into which the thing or things unlawfully taken or possessed may have been converted;

(C) any person who has been kidnapped in violation of the laws of this state or who has been kidnapped in another jurisdiction and is now concealed within this state;

(D) any human fetus or human corpse;

(E) any biological material, DNA, cellular material, blood, hair or fingerprints;

(F) any person for whom a valid felony arrest warrant has been issued in this state or in another jurisdiction; or

(G) (i) any information concerning the user of an electronic communication service; any information concerning the location of electronic communications systems, including, but not limited to, towers transmitting cellular signals involved in any wire communication; and any other information made through an electronic communications system; or

(ii) the jurisdiction granted in this paragraph shall extend to information held by entities registered to do business in the state of Kansas, submitting to the jurisdiction thereof, and entities primarily located outside the state of Kansas if the jurisdiction in which the entity is primarily located recognizes the authority of the magistrate to issue the search warrant; or

(2) the installation, maintenance and use of a tracking device.

(b) (1) The search warrant under subsection (a)(2) shall authorize the installation and use of the tracking device to track and collect tracking data relating to a person or property for a specified period of time, not to exceed 30 days from the date of the installation of the device.

(2) The search warrant under subsection (a)(2) may authorize the retrieval of the tracking data recorded by the tracking device during the specified period of time for authorized use of such tracking device within a reasonable time after the expiration of such warrant, for good cause shown.

(3) The magistrate may, for good cause shown, grant one or more extensions of a search warrant under subsection (a)(2) for the use of a tracking device, not to exceed 30 days each.

(c) Before ruling on a request for a search warrant, the magistrate may require the affiant to appear personally and may examine under oath the affiant and any witnesses that the affiant may produce. Such proceeding shall be taken down by a certified shorthand reporter or recording equipment and made part of the application for a search warrant.

(d) For a warrant executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(e) (1) For a warrant executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be open to the public until the warrant has been executed. After the warrant has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. The clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

- (A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;
 - (B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;
 - (C) interfere with any prospective law enforcement action, criminal investigation or prosecution;
 - (D) reveal the identity of any confidential source or undercover agent;
 - (E) reveal confidential investigative techniques or procedures not known to the general public;
 - (F) endanger the life or physical safety of any person;
 - (G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2018 Supp. 21-6419 through 21-6422, and amendments thereto;
 - (H) reveal the name of any minor;
 - (I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or
 - (J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the search warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.
- (5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:
- (A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or
 - (B) order the affidavits or sworn testimony sealed and not subject to public disclosure.
- (6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.
- (B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.
- (C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

(f) As used in this section:

(1) "Electronic communication" means the use of electronic equipment to send or transfer a copy of an original document;

(2) "electronic communication service" and "electronic communication system" have the meaning as defined in K.S.A. 22-2514, and amendments thereto;

(3) "tracking data" means information gathered or recorded by a tracking device;

(4) "tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object. "Tracking device" includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and a device that allows for the real-time monitoring of movement; and

(5) "victim" shall include any victim of an alleged crime that resulted in the issuance of the search warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.

(g) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A. 22-4615, and amendments thereto.

40-222. (a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

(d) The commissioner may also examine or investigate any person, or the business of any person, in so far as such examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company, but such examination or investigation shall not infringe upon or extend to any communications or information accorded privileged or confidential status under any other laws of this state.

(e) In lieu of examining the financial condition of a foreign or alien insurance company, the commissioner of insurance may accept the report of the examination made by or upon the authority of the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports as they relate to financial condition may only be accepted if:

(1) The insurance department conducting the examination was at the time of the examination accredited under the national association of insurance commissioners' financial regulation standards and accreditation program; or

(2) the examination is performed under the supervision of an accredited insurance department, or with the participation of one or more examiners who are employed by such an accredited insurance department and who after a review of the examination work papers and report state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(f) Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting an examination of financial condition, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(h) When making an examination under this act, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.

(i) Nothing contained in this act shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.

(j) Nothing contained in this act shall be construed to limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report in the furtherance of any legal or regulatory action which the commissioner may, in the commissioner's sole discretion, deem appropriate.

(k) (1) No later than 30 days following completion of the examination or at such earlier time as the commissioner shall prescribe, the examiner in charge shall file with the department a verified written report of examination under oath. No later than 30 days following receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford such company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(2) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners workpapers and enter an order:

(A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations; or

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refiling pursuant to subsection (k); or

(C) call and conduct a fact-finding hearing in accordance with K.S.A. 40-281, and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

(3) All orders entered as a result of revelations contained in the examination report shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report,

relevant examiner workpapers and any written submissions or rebuttals. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(4) Upon the adoption of the examination report, the commissioner shall hold the content of the examination report as private and confidential information for a period of 30 days except to the extent provided in paragraph (5). Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(5) (A) Except as provided in paragraph (B), nothing contained in this act shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, at any time to:

- (i) The insurance department of this or any other state or country;
- (ii) law enforcement officials of this or any other state or agency of the federal government or any other country; or
- (iii) officials of any agency of another country.

(B) The commissioner shall not share any information listed in paragraph (A) unless the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this act.

(6) In the event the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceedings or actions as provided by law.

(7) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this act **including analysis by the commissioner pertaining to either the financial condition or the market regulation of a company** must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent otherwise specifically provided in K.S.A. 45-215 et seq., and amendments thereto. Access may also be granted to the national association of insurance commissioners and its affiliates. Such parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

(8) Whenever it appears to the commissioner of insurance from such examination or other satisfactory evidence that the solvency of any such insurance company is impaired, or that it is doing business in violation of any of the laws of this state, or that its affairs are in an unsound condition so as to endanger its policyholders, the commissioner of insurance shall give the company a notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act. If the hearing confirms the report of the examination, the commissioner shall suspend the certificate of authority of such company until its solvency shall have been fully restored and the laws of the state fully complied with. The commissioner may, if there is an unreasonable delay in restoring the solvency of such company and in complying with the law, revoke the certificate of authority of such company to do business in this state. Upon revoking any such certificate the commissioner shall commence an action to dissolve such company or to enjoin the same from doing or transacting business in this state.

40-3407. (a) Except for investment purposes, all payments from the fund shall be upon warrants of the state of Kansas issued pursuant to vouchers approved by the executive director or the executive director's designee, and, with respect to claim payments, accompanied by: (1) A file stamped copy of a final judgment against a health care provider or inactive health care provider for which the fund is liable; or (2) a file stamped copy of a court approved settlement against a health care provider or inactive health care provider for which the fund is liable.

(b) For investment purposes amounts shall be paid from the fund upon vouchers approved by the chairperson of the pooled money investment board.

(c) (1) Payments from the fund for attorney fees, expert witness fees, and other costs related to claims, including invoices, statements and other documentation thereof, shall not be subject to K.S.A. 45-218, and amendments thereto.

(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this section shall be reviewed by the legislature prior to July 1, 2019.

44-714. (a) *Duties and powers of secretary.* It shall be the duty of the secretary to administer this act and the secretary shall have power and authority to adopt, amend or revoke such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the secretary deems necessary or suitable to that end. Such rules and regulations may be adopted, amended, or revoked by the secretary only after public hearing or opportunity to be heard thereon. The secretary shall determine the organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. The secretary shall make and submit reports for the administration of the employment security law in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the secretary believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the secretary shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

(b) *Publication.* The secretary shall cause to be printed for distribution to the public the text of this act, the secretary's rules and regulations and any other material the secretary deems relevant and suitable and shall furnish the same to any person upon application therefor.

(c) *Personnel.* Subject to other provisions of this act, the secretary is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, deputies, attorneys, experts and other persons as may be necessary in carrying out the provisions of this act. The secretary may delegate to any such person so appointed such power and authority as the secretary deems reasonable and proper for the effective administration of this act, and may in the secretary's discretion bond any person handling moneys or signing checks under the employment security law.

(d) *Employment stabilization.* The secretary, with the advice and aid of the appropriate divisions of the department of labor, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in time of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(e) *Records and reports.* Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the proper presentation of a claim by an employer or employee under the employment security law, and shall not be published or be open to public inspection, other than to public officials or the agents or contractors of a public official in the performance of

their official duties, in any manner revealing the individual's or employing unit's identity. The secretary may publish or otherwise disclose appeals records and decisions, and precedential determinations on coverage of employers, employment and wages, provided all social security numbers have been removed. Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in a criminal investigation or in open court in a criminal prosecution or at an appeal hearing under the employment security law. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts to an agent or contractor of a public official to whom disclosure is permissible under the employment security law, except that any party receiving such information shall be prohibited from further disclosure, except for use in the performance of such party's official duties, and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. Any individual who violates any provisions of this subsection, shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency.

(f) *Oaths and witnesses.* In the discharge of the duties imposed by the employment security law, the chairperson of an appeal tribunal, an appeals referee, the secretary or any duly authorized representative of the secretary shall have power to administer oaths and affirmations, take depositions, issue interrogatories, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of the employment security law.

(g) *Subpoenas, service.* Upon request, service of subpoenas shall be made by the sheriff of a county within that county, by the sheriff's deputy, by any other person who is not a party and is not less than 18 years of age or by some person specially appointed for that purpose by the secretary of labor or the secretary's designee. A person not a party as described above or a person specially appointed by the secretary or the secretary's designee to serve subpoenas may make service any place in the state. The subpoena shall be served as follows:

(1) *Individual.* Service upon an individual, other than a minor or incapacitated person, shall be made: (A) By delivering a copy of the subpoena to the individual personally; (B) by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; (C) by leaving a copy at the business establishment of the employer with an officer or employee of the establishment; (D) by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given; or (E) if service as prescribed above in subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by leaving a copy of the subpoena at the individual's dwelling house, usual place of abode or usual business establishment, and by mailing a notice by first-class mail to the place that the copy has been left.

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the subpoena

to an officer, partner or resident managing or general agent thereof, or by leaving the copy at any business office of the employer with the person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

(3) *Refusal to accept service.* In all cases when the person to be served, or an agent authorized by such person to accept service of petitions and summonses shall refuse to receive copies of the subpoena, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such subpoena.

(4) *Proof of service.* (A) Every officer to whom a subpoena or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ and shall sign such officer's name to such return.

(B) If service of the subpoena is made by a person appointed by the secretary or the secretary's designee to make service, or any other person described in subsection (g), such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return.* The officer or other person receiving a subpoena shall make a return of service promptly and shall send such return to the secretary or the secretary's designee in any event within 10 days after the service is effected. If the subpoena cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for the failure to serve the same.

(h) *Subpoenas, enforcement.* In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found, resides or transacts business, upon application by the secretary or the secretary's duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the secretary, or the secretary's duly authorized representative, to produce evidence, if so ordered, or to give testimony relating to the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda or other records in obedience to the subpoena of the secretary or the secretary's duly authorized representative shall be punished by a fine of not less than \$200 or by imprisonment of not longer than 60 days, or both, and each day such violation continued shall be deemed to be a separate offense.

(i) *State-federal cooperation.* In the administration of this act, the secretary shall cooperate to the fullest extent consistent with the provisions of this act, with the federal security agency, shall make such reports, in such form and containing such information as the federal security administrator may from time to time require, and shall comply with such provisions as the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the federal security agency governing the expenditures of such sums as may be allotted and paid to this state under title III of the social security act for the purpose of assisting in the administration of this act. Upon request therefor the secretary shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

(j) *Reciprocal arrangements.* The secretary shall participate in making reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

(1) Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states: (A) In which any part of such individual's service is performed; (B) in which such individual maintains residence; or (C) in which the employing unit maintains a place of business, provided there is in effect as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant

to which all the services performed by such individual for such employing units are deemed to be performed entirely within such state;

(2) service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employing unit maintains the headquarters of its business; provided that there is in effect, as to such service, an approved election by an employing unit with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state;

(3) potential rights to benefits accumulated under the employment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payments of benefits through a single appropriate agency under terms which the secretary finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(4) wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining such individual's rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the secretary finds will be fair and reasonable as to all affected interests; and

(5) (A) contributions due under this act with respect to wages for insured work shall be deemed for the purposes of K.S.A. 44-717, and amendments thereto, to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursements to the fund of such contributions and the actual earnings thereon as the secretary finds will be fair and reasonable as to all affected interests;

(B) reimbursements paid from the fund pursuant to subsection (j)(4) shall be deemed to be benefits for the purpose of K.S.A. 44-704 and 44-712, and amendments thereto; the secretary is authorized to make to other state or federal agencies, and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to the provisions of this section or any other section of the employment security law;

(C) the administration of this act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and such other states and the appropriate federal agencies in exchanging services and in making available facilities and information; the secretary is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this act as the secretary deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law and, in like manner, to accept and utilize information, service and facilities made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law; and

(D) to the extent permissible under the laws and constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government.

(k) *Records available.* The secretary may furnish the railroad retirement board, at the expense of such board, such copies of the records as the railroad retirement board deems necessary for its purposes.

(l) *Destruction of records, reproduction and disposition.* The secretary may provide for the destruction, reproduction, temporary or permanent retention, and disposition of records, reports and claims in the secretary's possession pursuant to the administration of the employment security law provided that prior to any destruction of such records, reports or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514, inclusive, and amendments thereto.

(m) *Federal cooperation.* The secretary may afford reasonable cooperation with every agency of the United States charged with administration of any unemployment insurance law.

(n) The secretary is hereby authorized to fix, charge and collect fees for copies made of public documents, as defined by K.S.A. 45-217(c), and amendments thereto, by xerographic, thermographic or other photocopying or reproduction process, in order to recover all or part of the actual costs incurred, including any costs incurred in certifying such copies. All moneys received from fees charged for copies of such documents shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the employment security administration fund. No such fees shall be charged or collected for copies of documents that are made pursuant to a statute which requires such copies to be furnished without expense.

(o) "Performance of official duties" means the administration or enforcement of law or the execution of the official responsibilities of a federal, state or local official, collection of debts owed to the courts or the enforcement of child support on behalf of a state or local official. Administration of law includes research related to the law administered by the public official. "Performance of official duties" does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2018 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2018 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

- (16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:
- (A) The information which the agency maintains on computer facilities; and
 - (B) the form in which the information can be made available using existing computer programs.
- (17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.
- (18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.
- (19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.
- (20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.
- (21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:
- (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or
 - (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.
- (22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:
- (A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or
 - (B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.
- (23) Library patron and circulation records which pertain to identifiable individuals.
- (24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.
- (25) Records which represent and constitute the work product of an attorney.
- (26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service.
- (27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.
- (28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

- (29) Correctional records pertaining to an identifiable inmate or release, except that:
- (A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;
 - (B) the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;
 - (C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and
 - (D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.
- (30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.
- (31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.
- (32) Engineering and architectural estimates made by or for any public agency relative to public improvements.
- (33) Financial information submitted by contractors in qualification statements to any public agency.
- (34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.
- (35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.
- (36) Information which would reveal the precise location of an archeological site.
- (37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.
- (38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.
- (39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to K.S.A. 40-409(b), and amendments thereto.

- (40) Disclosure reports filed with the commissioner of insurance under K.S.A. 40-2,156(a), and amendments thereto.
- (41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.
- (42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.
- (43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.
- (44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.
- (45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.
- (46) Any information or material received by the register of deeds of a county from military discharge papers, DD Form 214. Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.
- (47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.
- (48) Policy information provided by an insurance carrier in accordance with K.S.A. 44-532(h)(1), and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.
- (49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the purpose of public agency notifications or communications which are widely distributed to the public.
- (50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act, and amendments thereto, upon request of the party submitting such records.
- (51) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a law enforcement officer as defined in K.S.A. 2018 Supp. 21-5111, and

amendments thereto, parole officer, probation officer, court services officer or community correctional services officer. Such individual officer shall file with the custodian of such record a request to have such officer's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such officer's identifying information from such public access. Such restriction shall expire after five years and such officer may file with the custodian of such record a new request for restriction at any time.

(52) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a federal judge, a justice of the supreme court, a judge of the court of appeals, a district judge, a district magistrate judge, a municipal judge, the United States attorney for the district of Kansas, an assistant United States attorney, a special assistant United States attorney, the attorney general, an assistant attorney general, a special assistant attorney general, a county attorney, an assistant county attorney, a special assistant county attorney, a district attorney, an assistant district attorney, a special assistant district attorney, a city attorney, an assistant city attorney or a special assistant city attorney. Such person shall file with the custodian of such record a request to have such person's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such person's identifying information from such public access. Such restriction shall expire after five years and such person may file with the custodian of such record a new request for restriction at any time.

(53) Records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons training in order to be licensed or has made application for such license under the personal and family protection act, K.S.A. 2018 Supp. 75-7c01 et seq., and amendments thereto, shall not be disclosed unless otherwise required by law.

(54) Records of a utility concerning information about cyber security threats, attacks or general attempts to attack utility operations provided to law enforcement agencies, the state corporation commission, the federal energy regulatory commission, the department of energy, the southwest power pool, the North American electric reliability corporation, the federal communications commission or any other federal, state or regional organization that has a responsibility for the safeguarding of telecommunications, electric, potable water, waste water disposal or treatment, motor fuel or natural gas energy supply systems.

(55) Records of a public agency containing information or reports obtained and prepared by the office of the state bank commissioner in the course of licensing or examining a person engaged in money transmission business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall not be disclosed except pursuant to K.S.A. 9-513c, and amendments thereto, or unless otherwise required by law.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the

requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

46-1106. (a) (1) A financial-compliance audit shall be conducted each year of the general purpose financial statements prepared by the division of accounts and reports for its annual financial report. This audit shall be conducted in accordance with generally accepted governmental auditing standards. The resulting written audit report shall be issued as soon after the end of the fiscal year as is practicable.

(2) In addition, once every two years, separate written audit reports on the financial management practices of the office of the state treasurer and the pooled money investment board shall be prepared addressing the adequacy of financial management practices and compliance with applicable state laws. The separate audit of the pooled money investment board also shall include a comparative investment performance review and an analysis of the investment program, including an evaluation of investment policies and practices and of specific investments in the pooled money investment portfolio. The analysis of the specific investments in the pooled money investment portfolio shall review whether such investments meet the investment priorities of safety, liquidity and performance. The performance of such investments shall be measured by comparison to an appropriate market index.

(3) In addition, whenever an individual is first elected or appointed and qualified to the office of the state treasurer, the legislative division of post audit shall conduct a transition audit within two weeks after the date such individual enters upon the duties of the office of the state treasurer. The purpose of the transition audit shall be to review the assets in the custody of the office of the state treasurer for significant discrepancies at the time of the transition. A separate written report shall be prepared for each transition audit.

(4) Copies of the reports of audits conducted pursuant to this subsection (a) shall be furnished to the governor, director of accounts and reports, director of the budget, each state agency, the legislative post audit committee and other persons or agencies as may be required by law or by the specifications of the audit.

(5) Any additional costs associated with preparing the separate additional reports on the office of the state treasurer and the pooled money investment board shall be borne by the office of the state treasurer and the pooled money investment board in accordance with K.S.A. 46-1121, and amendments thereto.

(b) Including financial-compliance audit work conducted as part of the audit conducted pursuant to subsection (a), financial-compliance audit work shall be conducted at each state agency at least once every three years as directed by the legislative post audit committee. Written reports on the results of such auditing shall be furnished to the governor, director of accounts and reports, director of the budget, the state agency which is audited, the legislative post audit committee and such other persons or agencies as may be required by law or by the specifications of the audit.

(c) (1) Books and accounts of the state treasurer and the director of accounts and reports, including the bond register of the state treasurer, may be examined monthly if the legislative post audit committee so determines, and such examination may include detailed checking of every transaction or test checking.

(2) Any person receiving tax information under the provisions of subsection (a) or (b) shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(d) The post auditor shall report immediately in writing to the legislative post audit committee, governor and attorney general whenever it appears in the opinion of the post auditor that there may have occurred any violation of penal statutes or any instances of misfeasance, malfeasance or nonfeasance by a public officer or employee disclosed by any audit or audit work conducted under the legislative post audit act. The post auditor shall furnish the attorney general all information in the possession of the post auditor relative to any report referred to the attorney general. The attorney general shall institute and prosecute civil proceedings against any such delinquent officer or employee, or upon such officer or employee's official bond, or both, as may be needed to recover for the state any funds or other assets misappropriated. The attorney general shall also prosecute such ouster and criminal proceedings as the evidence in the case warrants. Any person receiving tax information under the provisions of this subsection shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(e) The post auditor shall immediately report to the committee on surety bonds and insurance when any audit or audit work conducted under the legislative post audit act discloses a shortage in the accounts of any state agency, officer or employee.

(f) In the discharge of the duties imposed under the legislative post audit act, the post auditor may require state agencies to preserve and make available their accounts, records, documents, vouchers, requisitions, payrolls, canceled checks or vouchers and coupons, and other evidence of financial transactions.

(g) In the discharge of the duties imposed under the legislative post audit act, the post auditor or firm conducting a financial-compliance audit or conducting any other audit or audit work shall have access to all books, accounts, records, files, documents and correspondence, confidential or otherwise, of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency. Except as otherwise provided in this subsection, the post auditor or firm conducting a financial-compliance audit or other audit or audit work under the legislative post audit act and all employees and former employees of the division of post audit or firm performing a financial-compliance audit or other audit or audit work shall be subject to the same duty of confidentiality imposed by law on any such person or state agency with regard to any such books, accounts, records, files, documents and correspondence, and any information contained therein, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the post auditor and on firms conducting financial-compliance audits or any other audits or audit work under the legislative post audit act and all employees of the division of post audit and all employees of such firms shall be subject to the provisions of subsection (d), and the post auditor may furnish all such books, accounts, records, files, documents and correspondence, and any information contained therein to the attorney general pursuant to subsection (d). Upon receipt thereof, the attorney general and all assistant attorneys general and all other employees and former employees of the office of attorney general shall be subject to the same duty of confidentiality with the exceptions that any such information contained therein may be disclosed in civil proceedings, ouster proceedings and criminal proceedings which may be instituted and prosecuted by the attorney general in accordance with subsection (d), and any such books, accounts, records, files, documents and correspondence furnished to the attorney general in accordance with subsection (d) may be entered into evidence in any such proceedings. Nothing in this subsection shall be construed to supersede any requirement of federal law.

(h) Any firm or firms which develop information in the course of conducting a financial-compliance audit or other audit or audit work under the legislative post audit act which the post auditor is required to report under subsection (d) or (e) shall immediately report such information to the post auditor. The post auditor shall then make the report required in subsection (d) or (e).

(i) (1) A financial-compliance audit shall be conducted annually on the accounts and transactions of the Kansas lottery and the Kansas lottery commission, of the Kansas public employees retirement system and of any other state agency as may be required by law. The auditor to conduct this audit work shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. If the legislative post audit committee specifies under such statute that a firm is to perform all or part of such audit work, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits required pursuant to this subsection shall be conducted in accordance with generally accepted governmental auditing standards, and shall be conducted as soon after the close of the fiscal year as practicable, but shall be completed no later than six months after the close of the fiscal year.

(2) The financial-compliance audit of the Kansas public employees retirement system shall include, but not be limited to, a review of alternative investments of the system with any estimates of permanent impairments to the value of such alternative investments reported by the system pursuant to K.S.A. 74-4907, and amendments thereto. The financial-compliance audit may include one or more performance audit subjects as directed by the legislative post audit committee. In considering performance audit subjects to be included in any such financial-compliance audit, the legislative post audit committee shall consider recommendations and requests for performance audits, relating to the system or the management thereof, by the joint committee on pensions, investments and benefits or by any other committee or individual member of the legislature. The legislative post audit committee shall specify if one or more performance audit subjects shall be included in such financial-compliance audit, in addition to such other subjects as may be directed to be included in such financial-compliance audit by the legislative post audit committee. Except as otherwise determined by the legislative post audit committee, one or more performance audit subjects specified by the legislative post audit committee shall be included at least once every two fiscal years in such financial-compliance audit. The legislative post audit committee may direct that one or more performance audit subjects are to be included in such financial-compliance audit not more than once during a specific period of three fiscal years, in lieu of once every two fiscal years.

65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.
- (b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency, except that the board may take appropriate disciplinary action or enter into a non-disciplinary resolution when a licensee has engaged in any conduct or professional practice on a single occasion that, if continued, would reasonably be expected to constitute an inability to practice the healing arts with reasonable skill and safety to patients or unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.
- (c) The licensee has been convicted of a felony or class A misdemeanor, or substantially similar offense in another jurisdiction, whether or not related to the practice of the healing arts. The licensee has been convicted in a special or general court-martial, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony or substantially similar offense in another jurisdiction, or following conviction in a general court-martial occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony or convicted in a general court-martial and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a $\frac{2}{3}$ majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.
- (d) The licensee has used fraudulent or false advertisements.

- (e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.
- (f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.
- (g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.
- (h) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.
- (i) The licensee's ability to practice the healing arts with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding.
- (j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country.
- (k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.
- (l) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122, and amendments thereto.
- (m) The licensee, if licensed to practice medicine and surgery, has failed to inform in writing a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment recognized by licensees of the same profession in the same or similar communities as being acceptable under like conditions and circumstances.
- (n) The licensee has cheated on or attempted to subvert the validity of the examination for a license.
- (o) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.
- (p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.
- (q) The licensee has violated a federal law or regulation relating to controlled substances.
- (r) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.
- (s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.
- (t) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a

governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(x) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(aa) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(bb) The licensee as the supervising physician for a physician assistant has failed to adequately direct and supervise the physician assistant in accordance with the physician assistant licensure act or rules and regulations adopted under such act.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as established by any of the following:

(1) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto.

(2) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto.

(3) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(dd) The licensee has given a worthless check or stopped payment on a debit or credit card for fees or moneys legally due to the board.

(ee) The licensee has knowingly or negligently abandoned medical records.

65-2839a. (a) In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any

document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, office of a practitioner of any profession regulated by the board, laboratory, pharmacy, medical care facility or other public or private agency if such document, report, record or evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person to safely practice any profession regulated by the board.

(b) For the purpose of all investigations and proceedings conducted by the board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee, registrant, permit holder or certificate holder to safely practice. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence. The board shall have the authority to compel the production of evidence upon noncompliance with an investigative subpoena, if in the opinion of the board or the board's designee, the evidence demanded relates to a practice which may be grounds for disciplinary action, is relevant to the charge which is the subject matter of the investigation and describes with sufficient particularity the physical evidence required to be produced.

(2) Any person appearing before the board shall have the right to be represented by counsel.

(3) The district court, upon application by the board or after exhaustion of available administrative remedies by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(c) The board may receive from the Kansas bureau of investigation or other criminal justice agencies such criminal history record information, including arrest and nonconviction data, criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining initial and continuing qualifications of licensees, permit holders, registrants and certificate holders of, and applicants for, licensure and registration by the board. Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license, permit, registration or certificate issued under this act. Unless otherwise specified, nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to the practice act of any profession regulated by the board.

(d) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this section shall be confidential and shall not be disclosed.

(e) Nothing in this section or any other provision of law making communications between a licensee, registrant, permit holder or certificate holder and the patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this section. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

65-2842. (a) Upon reasonable suspicion that a person's ability to practice such person's profession with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances, the board shall have authority to compel the person to submit to a mental or physical examination, substance abuse evaluation or drug screen or any combination thereof, by such persons as the board may designate either in the course of an investigation or a disciplinary proceeding.

(b) To determine whether reasonable suspicion of impaired ability exists, the investigative information shall be presented to the board as a whole, or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818, and amendments thereto, and the executive director appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a presiding officer authorized pursuant to K.S.A. 77-514, and amendments thereto. The determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a committee of the officers and executive director of the board or presiding officer and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity.

(c) The person shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. Any person affected by this section shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of such person's profession with reasonable skill and safety to patients. For the purposes of this section, every person who accepts the privilege to practice any profession regulated by the board in this state by practicing or by the making and filing of a renewal application in this state shall be deemed to have consented to submit to a mental or physical examination, substance abuse evaluation or a drug screen, or any combination thereof, when directed in writing by the board. Further, such person shall be deemed to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication.

(d) In any proceeding by the board pursuant to the provisions of this section, the records of any board proceedings involving the mental and physical examination, substance abuse evaluation or drug screen, or any combination thereof, shall be considered confidential and shall not be used in any civil, criminal or administrative action, other than an administrative or disciplinary proceeding by the board.

(e) Whenever the board directs, that a licensee, registrant, permit holder or certificate holder submit to a mental or physical examination, substance abuse evaluation or drug screen, or any combination thereof, the time from the date of the board's directive until the submission to the board of the report of the examination or drug screen, or both, shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

65-28a05. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;

(b) the licensee has obtained a license by means of fraud, misrepresentations or concealment of material facts;

- (c) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;
- (d) the licensee has been convicted of a felony;
- (e) the licensee has violated any provision of this act, and amendments thereto;
- (f) the licensee has violated any lawful order or rule and regulation of the board;
- (g) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or is incompetent to stand trial by a court of competent jurisdiction;
- (h) the licensee has violated a federal law or regulation relating to controlled substances;
- (i) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
- (j) the licensee has surrendered a license or authorization to practice as a physician assistant in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
- (k) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as a physician assistant in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
- (l) the licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
- (m) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
- (n) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding;
- (o) the licensee has exceeded or has acted outside the scope of authority given the physician assistant by the supervising physician or by this act; or
- (p) the licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as established by any of the following:
 - (1) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto.

(2) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto.

(3) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

65-6230. This section shall be known and may be cited as the health care compact.

THE HEALTH CARE COMPACT

ARTICLE I DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

(a) "Commission" means the interstate advisory health care commission.

(b) "Effective date" means the date upon which this compact shall become effective for purposes of the operation of state and federal law in a member state, which shall be the later of:

(1) The date upon which this compact shall be adopted under the laws of the member state, and

(2) the date upon which this compact receives the consent of congress pursuant to article I, section 10, of the United States constitution, after at least two member states adopt this compact.

(c) "Health care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body;

(2) sale or dispensing of a drug, device, equipment or other item in accordance with a prescription; and

(3) an individual or group plan that provides, or pays the cost of, care, services or supplies related to the health of an individual, except any care, services, supplies or plans provided by the United States department of defense and United States department of veterans affairs, or provided to Native Americans.

(d) "Member state" means a state that is signatory to this compact and has adopted it under the laws of that state.

(e) "Member state base funding level" means a number equal to the total federal spending on health care in the member state during federal fiscal year 2010. On or before the effective date, each member state shall determine the member state base funding level for its state, and that number shall be binding upon that member state. The preliminary estimate of member state base funding level for the state of Kansas is \$6,985,000,000.

(f) "Member state current year funding level" means the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor.

(g) "Member state current year population adjustment factor" means the average population of the member state in the current year less the average population of the member state in federal fiscal year 2010, divided by the average population of the member state in federal fiscal year 2010, plus 1. Average population in a member state shall be determined by the United States census bureau.

(h) "Current year inflation adjustment factor" means the total gross domestic product deflator in the current year divided by the total gross domestic product deflator in federal fiscal year 2010. Total gross domestic product deflator shall be determined by the bureau of economic analysis of the United States department of commerce.

ARTICLE II PLEDGE

The member states shall take joint and separate action to secure the consent of the United States congress to this compact in order to return the authority to regulate health care to the member states consistent with the goals and principles articulated in this compact. The member states shall improve health care policy within their respective jurisdictions and according to the judgment and discretion of each member states.

ARTICLE III LEGISLATIVE POWER

The legislatures of the member states have the primary responsibility to regulate health care in their respective states.

ARTICLE IV STATE CONTROL

Each member state, within its state, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the member state pursuant to this compact. Federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to its authority under this compact. For any federal law, rule, regulation, or order that remains in effect in a member state after the effective date, that member state shall be responsible for the associated funding obligations in its state.

ARTICLE V FUNDING

(a) Each federal fiscal year, each member state shall have the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year, funded by congress as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under this compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the member state.

(b) By the start of each federal fiscal year, congress shall establish an initial member state current year funding level for each member state, based upon reasonable estimates. The final member state current year funding level shall be calculated, and funding shall be reconciled by the United States congress based upon information provided by each member state and audited by the United States government accountability office.

ARTICLE VI INTERSTATE ADVISORY HEALTH CARE COMMISSION

(a) The interstate advisory health care commission is established. The commission consists of members appointed by each member state through a process to be determined by each member state. A member state may not appoint more than two members to the commission and may withdraw membership from the commission at any time. Each commission member is entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

(b) The commission may elect from among its membership a chairperson. The commission may adopt and publish bylaws and policies that are not inconsistent with this compact. The commission shall meet at least once a year, and may meet more frequently.

(c) The commission may study issues of health care regulation that are of particular concern to the member states. The commission may make non-binding recommendations to the member states. The legislatures of the member

states may consider these recommendations in determining the appropriate health care policies in their respective states.

(d) The commission shall collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices of health care. The commission shall make this information and data available to the legislatures of the member states. Notwithstanding any other provision in this compact, no member state shall disclose to the commission the health information of any individual, nor shall the commission disclose the health information of any individual.

(e) The commission shall be funded by the member states as agreed to by the member states. The commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the member states in accordance with the terms of this compact.

(f) The commission shall not take any action within a member state that contravenes any state law of that member state.

ARTICLE VII CONGRESSIONAL CONSENT

This compact shall be effective on its adoption by at least two member states and consent of the United States congress. This compact shall be effective unless the United States congress, in consenting to this compact, alters the fundamental purposes of this compact, which are:

(a) To secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations and orders within their states; and

(b) to secure federal funding for member states that choose to invoke their authority under this compact, as prescribed by article 5.

ARTICLE VIII AMENDMENTS

The member states, by unanimous agreement, may amend this compact from time to time without the prior consent or approval of congress and any amendment shall be effective unless, within one year, the congress disapproves that amendment. Any state may join this compact after the date on which congress consents to the compact by adoption into law under its state constitution.

ARTICLE IX WITHDRAWAL; DISSOLUTION

Any member state may withdraw from this compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the governor of the withdrawing member state has given notice of the withdrawal to the other member states. A withdrawing state shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This compact shall be dissolved upon the withdrawal of all but one of the member states.

72-6314. (a) Any student data submitted to and maintained by a statewide longitudinal student data system shall only be disclosed by an educational agency in accordance with the provisions of this section. An educational agency shall provide annual written notice to each student's parent or legal guardian that student data may be disclosed in accordance with this section. Such notice shall be signed by the student's parent or legal guardian and maintained on file with the district.

(b) Student data may be disclosed at any time to:

- (1) The authorized personnel of an educational agency who require such disclosures to perform their assigned duties;
 - (2) the authorized personnel of the state board of regents who require such disclosures to perform their assigned duties; and
 - (3) the student and the parent or legal guardian of the student, provided the student data pertains solely to such student.
- (c) Student data may be disclosed to the authorized personnel of any state agency not specified in subsection (b), or to a service provider of a state agency, educational agency or school who is engaged to perform a function of instruction, assessment or longitudinal reporting, provided there is a data-sharing agreement between the educational agency and such other state agency or service provider that provides the following:
- (1) The purpose, scope and duration of the data-sharing agreement;
 - (2) that the recipient of the student data use such information solely for the purposes specified in the agreement;
 - (3) that the recipient shall comply with data access, use and security restrictions that are specifically described in the agreement; and
 - (4) that the student data shall be destroyed when no longer necessary for the purposes of the data-sharing agreement or upon expiration of the data-sharing agreement, whichever occurs first. Except that a service provider engaged to perform a function of instruction may retain student transcripts as required by applicable laws and rules and regulations. Destruction shall comply with the NISTSP800-88 standards of data destruction.
- (d) (1) Except as otherwise provided in paragraph (2), student data may be disclosed to any governmental entity not specified in subsection (b) or (c), or to any public or private audit and evaluation or research organization, provided that only aggregate data is disclosed to such governmental entity or audit and evaluation or research organization.
- (2) Personally identifiable student data may be disclosed if the student, if an adult, or the parent or legal guardian of the student, if a minor, consents to such disclosure in writing.
- (e) Notwithstanding the provisions of subsections (b), (c) and (d), an educational agency may disclose:
- (1) Directory information of a student when such agency deems such disclosure necessary and the disclosure of which has been consented to in writing by such student's parent or legal guardian;
 - (2) directory information to an enhancement vendor that provides photography services, class ring services, yearbook publishing services, memorabilia services or other substantially similar services;
 - (3) any information required to be disclosed pursuant to K.S.A. 65-101, 65-118 and 65-202, and amendments thereto, provided such information is disclosed in accordance with any provisions of such statutes regarding the confidentiality and disclosure of such information;
 - (4) any student data in order to comply with any lawful subpoena or court order directing such disclosure; and
 - (5) student data to a public or private postsecondary educational institution which is required by such postsecondary educational institution for the purposes of application or admission of a student to such postsecondary educational institution, provided that such disclosure is consented to in writing by such student.

74-7047. (a) As used in this section:

- (1) "Board" means the state board of technical professions established pursuant to K.S.A. 74-7004, and amendments thereto.
- (2) "Design profession" means the practice of architecture, landscape architecture, land surveying, geology or engineering as specified in K.S.A. 74-7003, and amendments thereto.
- (3) "Design professional" means an architect, landscape architect, land surveyor, geologist or professional engineer or a business entity authorized pursuant to K.S.A. 74-7036, and amendments thereto, to practice one or more of the technical professions specified in paragraph (2).
- (4) "Architect" shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.
- (5) "Geologist" shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.
- (6) "Landscape architect" shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.
- (7) "Land surveyor" shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.
- (8) "Professional engineer" shall have the meaning ascribed to such term in K.S.A. 74-7003, and amendments thereto.
- (9) "Lessons learned" means any internal meeting, class, publication in any medium, presentation, lecture, or other means of teaching and communicating after substantial completion of the project which are conducted solely and exclusively by and with the employees, partners, and coworkers of the design professional who prepared the project's design for the purpose of learning best practices and reducing errors and omissions in design documents and procedures.
- (10) "Peer review" or "peer review process" means any of the following functions:
 - (A) Evaluate and improve the design, drawings specifications or quality of services rendered by a design professional;
 - (B) evaluate the design, construction, procedures and results of improvements to real property based upon services rendered by a design professional during or after completion of such improvements; or
 - (C) prepare an internal lessons learned review of any project or services rendered for the purpose of improving the quality of services rendered by a design professional.
- (11) "Peer reviewer" or "peer review committee" means an individual design professional or a committee of design professionals retained, employed, designated or appointed by:
 - (A) A state, county or local society of design professionals; or
 - (B) the board of directors, chief executive officer, quality control director, or employed design professional of a business entity authorized pursuant to K.S.A. 74-7036, and amendments thereto, to practice one or more of the technical professions specified in paragraph (2).

(b) (1) Except as provided by K.S.A. 60-437, and amendments thereto, and by subsections (c) and (d), the reports, statements, memoranda, proceedings, findings and other records submitted to or generated by any peer review

committee or peer reviewer shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding. Information contained in such records shall not be discoverable or admissible at trial in the form of testimony by an individual who participated in the peer review process.

(2) The design professional who retains, employs, designates or appoints the peer reviewer or peer review committee is the holder of the privilege established by this section. This privilege may be claimed by such design professional and shall not be waived as a result of any disclosure by a peer reviewer or peer review committee.

(c) (1) Subsection (b) shall not apply to proceedings by the board in which a design professional contests the revocation, denial, restriction or termination of the license, registration, certification or other authorization to practice of the design professional. In any disciplinary proceeding conducted by the board in which admission of any peer review report, record or testimony is proposed by the licensee, the board shall hold the hearing in closed session when any such report, record or testimony is disclosed. Unless otherwise provided by law, in a disciplinary proceeding involving a design professional, the board may close only that portion of the hearing in which disclosure of a report or record privileged under this section is proposed. In closing a portion of a hearing as provided by this section, the presiding officer may exclude any person from the hearing location except the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and appropriate staff support for either counsel.

(2) Upon motion of the design professional who is subject to the proceeding, a district court or the board shall make the portions of the agency record in which such report or record is disclosed subject to a protective order prohibiting further disclosure of such report or record.

(3) Such report or record shall not be subject to discovery, subpoena or other means of legal compulsion for its release to any person or entity. No person in attendance at a closed portion of a disciplinary proceeding shall at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a report or record privileged under this section which was disclosed in a closed portion of a hearing, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing.

(4) In conducting a disciplinary proceeding, the board may review peer review committee process, records, testimony or reports but must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in open meeting of the board. Peer review committee process, records, testimony or reports received by the board shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the board.

(5) Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, records or report.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the board to impose disciplinary action pursuant to K.S.A. 74-7026, and amendments thereto, against a design professional.

(e) (1) A peer review committee or peer reviewer may report to and discuss its activities, information and findings to other peer review committees or peer reviewers or to the design professional who retains, employs, designates or appoints the peer reviewer or peer review committee and to any officer, director or quality control director thereof without waiver of the privilege provided by subsection (b) and the records of all such peer review committees or peer reviewers relating to such report shall be privileged as provided by subsection (b).

(2) Each peer reviewer and member of a peer review committee shall be immune from civil liability for such acts so long as the acts are performed in good faith, without malice, and are reasonably related to the scope of inquiry of the peer review process. The immunity in this subsection is intended to cover only outside peer reviews by a third-party design professional who:

(A) Is not an employee, coworker, or partner of the design professional whose design is being peer reviewed; and

(B) has no other role in the project besides performing the peer review.

(f) No provision of this act shall be construed to supersede or conflict with the authority of the board of technical professions pursuant to K.S.A. 74-7001 et seq., and amendments thereto.